

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
Portland Division

RHONDA W. WILCOX,

Civil No. 03:09-CV-6349-HU

Plaintiff,

ORDER

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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MARSH, Judge.

Magistrate Judge Hubel issued a Findings and Recommendation on June 27, 2011, recommending that the Commissioner's October 7, 2009, final decision denying plaintiff's April 27, 2004, application for disability insurance benefits pursuant to Title II of the Social Security Act, 42 U.S.C. § 1381 *et seq*, be reversed, and that this case be remanded to the Commissioner for the immediate payment of benefits. Defendant has filed timely objections (doc. 24). Accordingly, the matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). The court reviews *de novo* those portions of the Magistrate's Findings and Recommendation to which the Commissioner has objected. See 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

After *de novo* review, I find no error by the magistrate judge in his painstaking analysis of the record, particularly relating to plaintiff's credibility, the disability opinion of

treating physician, K. Annette Weller, M.D., and the lay witness evidence presented by plaintiff's husband.

Accordingly, I **ADOPT** the Findings and Recommendation (#16) of Magistrate Judge Hubel and remand this matter for the immediate payment of benefits.

IT IS SO ORDERED.

DATED this 21 day of September, 2011.

/s/ Malcolm F. Marsh
Malcolm F. Marsh
United States District Judge